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SUBJECT: GUIDANCE FOR USUN FOR 30 NOVEMBER ARRIA-STYLE
MEETING ON HUMAN RIGHTS AND COUNTERTERRORISM

REF: USUN 000480

¶1. This is an action request. Please see paragraph 3.

¶2. On November 30, the Mexican Permanent Representative to the United Nations will host an Arria-style meeting (in which members of the Security Council gather informally to be briefed by independent experts about matters of international peace and security), during which Mary Robinson -- a member of the International Commission of Jurists (ICJ), President of Realizing Rights: the Ethical Globalization Initiative, former UN High Commissioner for Human Rights, and former President of Ireland -- will present an overview of a report that the ICJ completed last spring that deals with human rights and counterterrorism. The report is critical of U.S. action with respect to safeguarding human rights in pursuit of counterterrorism goals.

¶3. USUN may wish to draw from the following points in response to the November 30 Arria-style meeting on human rights and counterterrorism:

BEGIN POINTS:

-- The United States thanks Mexico for its leadership in organizing this important meeting. The United States looks forward to working with partners both in and outside the United Nations Security Council to ensure that United Nations is playing its part in ensuring that national counterterrorism measures are grounded in respect for human rights and the promotion of rule of law.

-- We must continue to ensure UN provisions embody the fundamental principle of protecting human rights while countering terrorism and reaffirm our commitment to implement efforts in this regard as one of the four pillars of the UN Global Counterterrorism Strategy.

-- We would also like to thank Mary Robinson and the International Commission of Jurists for their contributions to this important dialogue. The United States thanks Mary Robinson for her extraordinary service to the cause of human rights, which President Obama recognized by awarding her the Medal of Freedom at the White House in July of this year.

-- The relationship between human rights and counterterrorism is a critical one in the security environment we face today.

-- We know that radicalism often appears and flourishes where fundamental human rights are denied.

-- We know that robust counterterrorism efforts can only succeed when they make central respect for humans and rule of law. Only then do these efforts enjoy legitimacy in the affected countries and in the global community.

-- And, importantly as well, we know that without adequate counterterrorism policies, elements within many societies will clamor for the abrogation of basic human rights and rule

of law. Such developments often herald the initiation of vicious circles in which repression and radicalism feed on one another.

-- Let me state categorically that respect for human rights is essential for our success against contemporary terrorism.

-- As President Obama said in his inaugural address, there must be no tradeoff between our security and our ideals. The Obama administration has taken action to ensure that U.S. counterterrorism practices reflect this fundamental principle, for example, by banning the use of so-called enhanced interrogation techniques. The United States also remains committed to closing the detention facility at Guantanamo Bay as promptly as possible. In candor, this task has proven difficult, though the administration is committed to the closure and has made significant progress in resettling detainees -- whom we have approved for transfer but whom we cannot return to their countries of origin due to post-transfer treatment concerns -- and recently, in designating five detainees for prosecution in a U.S. federal court. We appreciate the help of those governments which have supported the closure by receiving detainees for resettlement, but we will need the continued assistance of our friends and partners in the international community to meet President Obama's objective.

-- The Obama administration is committed to strengthening the role of the United Nations and the many other relevant international organizations in the legitimate fight against terror. In order to make best use of this forum, we hope that attention can focus on practical steps that could be taken by the Council and its relevant committees and expert groups to enhance integration of human rights into their respective counterterrorism activities.

-- Cooperation between the Security Council's subsidiary bodies, the Counterterrorism Implementation Task Force (CTITF), and the UN human rights mechanisms, is essential.

-- The main question for discussion at this meeting is how the Security Council and its subsidiary bodies can consider human rights and the rule of law in monitoring and advising on the implementation of Security Council Resolutions 1267, 1373, and 1540.

-- With respect to Resolution 1267, the international community's full implementation of 1267 measures remains a critical tool in countering the threat posed by al-Qaeda and the Taliban. The United States believes that the Council should continue its efforts to ensure that the sanctions imposed are applied in a fair and transparent manner. Resolution 1822 and its predecessors introduced significant enhancements to ensure fairness. The Council will negotiate, in the coming weeks, a new resolution to renew the mandate of the 1267 Monitoring Team and has the opportunity to enhance the regime and improve our ability to counter the al-Qaeda and Taliban threat. The United States believes that this resolution should take additional steps to ensure that the process for listing and delisting individuals and entities is as fair and transparent as possible. We believe that there is room to improve the way in which the 1267 Committee decides to list individuals and entities and how it considers requests for those seeking to be removed from the list.

-- Before addressing ways in which to sharpen the human rights focus of the Counterterrorism Committee (CTC) and its Counterterrorism Executive Directorate (CTED) established under Resolution 1373, it is important to first recognize the progress that has been made in recent years. As the UN Human Rights Commissioner herself said in her address to the CTC last month, "the CTED, prompted by the CTC, has made a vigorous commitment to take relevant human rights considerations into account when assessing States' compliance with Security Council counterterrorism resolution 1373. Moreover, CTED has increasingly shown a willingness to address specific human rights issues in its dialogue with States.

-- It is now widely recognized that some human rights issues, including procedural ones highlighted by CTED in its 13 November presentation to the CTC on the human rights aspects of judicial cooperation, are directly relevant to bringing terrorists to justice -- and an important requirement of UNSCR 1373.

-- These practical human rights issues, which concern, inter alia, the principle of legality, the treatment of terrorist suspects and the gathering of evidence, were highlighted during a workshop CTED organized for police and prosecutors in South Asia earlier this month.

-- CTED also is an active contributor to the CTITF working group on human rights and counterterrorism, and we enthusiastically support CTED's continued involvement in this work.

-- We believe there are additional practical steps that could be taken, such as: 1) More regularly involving the senior human rights adviser or another appropriate human rights expert, either from the Office of the High Commissioner on Human Rights (OHCHR), or a regional human rights organization, on CTED country visits; and 2) Ensuring that human rights elements are fully integrated into all future training workshops organized by CTED, following the successful model of the recent one in Dhaka.

-- Finally, with respect to Resolution 1540, the focus of the 1540 Committee is and should remain the prevention of proliferation of weapons of mass destruction. That being said, we welcome suggestions as to how the human rights considerations can practically and usefully be integrated into the work of the 1540 Committee.

END POINTS
CLINTON